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EXAMINER

NAJARIAN, LENA

ART UNIT PAPER NUMBER

3626

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/816,597

**Applicant(s)**

SABOVICH, JOHN

**Examiner**

Lena Najarian

**Art Unit**

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION*****Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: item 1072 (p. 28, line 18) and item 916a (p. 45, line 4). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: item 1149 (Fig. 11) and items 1172 & 1082 (Fig. 10). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted

Art Unit: 3626

after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 26 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 26 recites the limitation "the requirements" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3626

7. Claims 12-13 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Cummings, Jr. (5,301,105).

(A) Referring to claim 12, Cummings discloses a method of managing patient medical records, comprising (col. 2, lines 43-45 of Cummings):

providing an electronic interface system (col. 4, lines 22-29 of Cummings);

creating patient medical records associated with work-related injuries for a plurality of patients, the patient medical records stored in the electronic interface system (col. 9, lines 33-38 and col. 2, lines 54-57 of Cummings);

providing a plurality of authorized users access to at least one of the patient medical records, consistent with predetermined access rules (col. 9, lines 9-38 and col. 8, lines 5-14 of Cummings).

(B) Referring to claim 13, Cummings discloses wherein the plurality of authorized users comprise an employer, an insurance company, a physician, and an employee employed by the employer (see abstract, col. 1, lines 54-60, and col. 5, lines 30-32 of Cummings; the Examiner interprets "health care provider" to be a form of "physician").

(C) Referring to claim 16, Cummings discloses providing a physician access to treatment protocols stored in the electronic interface system, the treatment protocols corresponding to diagnoses made by the physician (col. 9, lines 53-65 of Cummings).

(D) Referring to claim 17, Cummings discloses providing at least one of an employer and an insurance company the opportunity to pre-approve the treatment protocols before the treatment protocols are stored in the electronic

Art Unit: 3626

interface system (col. 2, lines 58-61 & col. 10, lines 3-17 of Cummings; the Examiner interprets "pre-certification of...procedures" to be a form of "pre-approve the treatment protocols").

(E) Referring to claim 18, Cummings discloses notifying electronically at least one of the employer and the insurance company whenever the physician provides treatment to a patient that does not fall within one of the treatment protocols (col. 10, lines 3-17 of Cummings; the Examiner interprets "discrepancy" to be a form of "does not fall within").

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-11, 14-15, and 19-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cummings, Jr. (5,301,105) in view of Baruch et al. (US 2002/0077849 A1).

(A) Referring to claim 1, Cummings discloses a method of managing patient records, comprising (col. 2, lines 43-45 of Cummings):

providing an online interface system (col. 7, lines 61-65 of Cummings);

Art Unit: 3626

creating patient medical records for a plurality of patients, the patient medical records stored in the online interface system (col. 9, lines 33-38 and col. 4, lines 30-39 of Cummings);

providing a plurality of authorized users access to at least one of the patient medical records, consistent with predetermined access rules (col. 9, lines 9-38 and col. 8, lines 5-14 of Cummings).

Cummings does not disclose a web site.

Baruch discloses a web site (para. 49 of Baruch; the Examiner interprets "web browser" to imply the use of a "web site").

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Baruch within Cummings. The motivation for doing so would have been to facilitate communication between the various users of the system (para. 50 of Baruch).

(B) Referring to claim 2, Cummings discloses wherein one of the plurality of authorized users is an employer having employees (col. 1, lines 4-11 and col. 8, lines 5-9 of Cummings).

(C) Referring to claim 3, Cummings discloses wherein at least one of the plurality of patients is an employee working for the employer (col. 2, lines 11-14 of Cummings).

(D) Referring to claim 4, Cummings discloses wherein one of the plurality of authorized users is an insurance company, the insurance company providing insurance coverage to the employer (col. 5, lines 39-49 and col. 8, lines 5-9 of Cummings).

Art Unit: 3626

(E) Referring to claim 5, Cummings discloses wherein one of the plurality of authorized users is a physician, the physician entering data into the online interface system corresponding to a patient encounter with at least one of the employees (col. 9, lines 57-65 and col. 3, lines 13-16 of Cummings).

(F) Referring to claim 6, Cummings discloses sending an electronic bill to at least one of an insurance company and the employer after the physician enters data into the online interface system (col. 1, line 20-29 of Cummings; the Examiner interprets "lists of medical procedures for which such payers are obligated to make payments" to be a form of "bill").

(G) Referring to claim 7, Cummings providing the plurality of authorized users the ability to retrieve, store, and disseminate at least one of the patient encounter records at a computer terminal (col. 9, lines 26-40 and col. 4, lines 4-21 of Cummings; the Examiner interprets "accesses" to be a form of "retrieve" and "produce a summary report" to be a form of "disseminate").

Cummings does not disclose the computer terminal having Internet access.

Baruch discloses Internet access (para. 50 of Baruch).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Baruch within Cummings. The motivation for doing so would have been to facilitate communication between the various users of the system (para. 50 of Baruch).



Art Unit: 3626

(H) Referring to claim 8, Cummings discloses wherein the patient medical records are associated with work-related injuries (col. 2, lines 51-57 of Cummings).

(I) Referring to claim 9, Cummings discloses providing a physician access to treatment protocols stored in the online interface system, the treatment protocols corresponding to diagnoses made by the physician (col. 9, lines 53-65 of Cummings).

(J) Referring to claim 10, Cummings discloses providing at least one of an employer and an insurance company the opportunity to pre-approve the treatment protocols before the treatment protocols are stored in the online interface system (col. 2, lines 58-61 & col. 10, lines 3-17 of Cummings; the Examiner interprets "pre-certification of...procedures" to be a form of "pre-approve the treatment protocols").

(K) Claim 11 repeats the same limitations of claim 18 above, and is therefore rejected for the same reasons given for that claim.

(L) Referring to claim 14, Cummings does not disclose access to the electronic interface system online via a web site.

Baruch discloses a web site (para. 49 of Baruch; the Examiner interprets "web browser" to imply the use of a "web site").

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Baruch within Cummings. The motivation for doing so would have been to facilitate communication between the various users of the system (para. 50 of Baruch).

Art Unit: 3626

(M) Referring to claim 15, Cummings discloses providing the plurality of authorized users the ability to retrieve, store, and disseminate at least one of the patient medical records at a computer terminal (col. 9, lines 26-40 and col. 4, lines 4-21 of Cummings; the Examiner interprets “accesses” to be a form of “retrieve” and “produce a summary report” to be a form of “disseminate”).

Cummings does not disclose the computer terminal having Internet access.

Baruch discloses Internet access (para. 50 of Baruch).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Baruch within Cummings. The motivation for doing so would have been to facilitate communication between the various users of the system (para. 50 of Baruch).

(N) Referring to claim 19, Cummings discloses a method of managing patient medical records, comprising (col. 2, lines 43-45 of Cummings):

providing an online interface system (col. 7, lines 61-65 of Cummings);

creating patient medical records for a plurality of patients, the patient medical records stored in the online interface system (col. 9, lines 33-38 and col. 4, lines 30-39 of Cummings);

providing a plurality of authorized users access to at least one of the patient encounter records, consistent with predetermined access rules (col. 9, lines 9-38 and col. 8, lines 5-14 of Cummings);

Art Unit: 3626

providing a physician access to treatment protocols stored in the online interface system, the treatment protocols corresponding to diagnoses made by the physician (col. 9, lines 53-65 of Cummings).

Cummings does not disclose a web site.

Baruch discloses a web site (para. 49 of Baruch; the Examiner interprets "web browser" to imply the use of a "web site").

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Baruch within Cummings. The motivation for doing so would have been to facilitate communication between the various users of the system (para. 50 of Baruch).

(O) Claims 20-22 repeat the same limitations of claims 10-11 and 13, and are therefore rejected for the same reasons given for those claims.

(P) Referring to claim 23, Cummings discloses an online patient record system, comprising:

a database, the database comprising (col. 4, lines 30-39 of Cummings; the Examiner interprets "data bank" to be a form of "database")

a first set of components facilitating the viewing and entering of patient data at the web site by a plurality of authorized users (col. 6, lines 59-65, col. 7, lines 61-65, and col. 8, lines 5-14 of Cummings; the Examiner interprets "symptoms" to be a form of "patient data");

a second set of components electronically linked to the first set of components, the second set of components defining a business model for a business (col. 3, lines 17-21 and col. 13, lines 41-59 of Cummings);

a third set of components electronically linked to the first set of components, the third set of components facilitating the retrieval and modification of patient data by the plurality of authorized users, the third set of components operatively independent from the second set of components (col. 13, lines 60-67 and col. 9, lines 26-40 of Cummings; the Examiner interprets “accessing” to be a form of “retrieval” and “tailored” to be a form of “modification”).

Cummings does not disclose a web site.

Baruch discloses a web site (para. 49 of Baruch; the Examiner interprets “web browser” to imply the use of a “web site”).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Baruch within Cummings. The motivation for doing so would have been to facilitate communication between the various users of the system (para. 50 of Baruch).

(Q) Claim 24 repeats the same limitations of claim 13, and is therefore rejected for the same reasons given for that claim.

(R) Referring to claim 25, Cummings discloses wherein the patient data comprises work-related injury information associated with the employee (col. 2, lines 54-57 of Cummings).

(S) Referring to claim 26, Cummings discloses wherein the second set of components is modifiable and adaptable to meet the requirements of an updated business model without affecting the third set of components (col. 13, lines 40-67 of Cummings; the Examiner interprets “depending upon the desires” to be a form of “modifiable and adaptable”).

Art Unit: 3626

(T) Referring to claim 27, Cummings discloses wherein the third set of components is adapted to accept inputted data without affecting the second set of components (col. 1, lines 20-29 of Cummings; the Examiner interprets "data entry" to be a form of "accept inputted data").

(U) Referring to claim 28, Cummings discloses wherein the third set of components comprises treatment protocols corresponding to diagnoses made by physicians (col. 9, lines 53-65 of Cummings).

(V) Referring to claim 29, Cummings discloses wherein the second set of components and the third set of components are accessed by the plurality of authorized users via the first set of components (col. 8, lines 1-14 of Cummings).

(W) Referring to claim 30, Cummings does not disclose wherein the database is accessible to the plurality of authorized users from any computer terminal having Internet access.

Baruch discloses wherein the database is accessible to the plurality of authorized users from any computer terminal having Internet access (para. 51, lines 16-22 of Baruch).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Baruch within Cummings. The motivation for doing so would have been to facilitate communication between the various users of the system (para. 50 of Baruch).

### ***Conclusion***

Art Unit: 3626

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches an auditing and monitoring system for workers' compensation claims (US 2001/0044735 A1); a method, system and computer program for health data collection, analysis, report generation and access (US 2003/0187688 A1); a system and method for supporting delivery of health care (6,012,035); a system and method for integration of health care records (US 2002/0120472 A1); a privacy data escrow system and method (US 6,449,621 B1); and a patient-controlled automated medical record, diagnosis, and treatment system and method (US 2002/0029157 A1).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is (571) 272-7072. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3626

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Ln*  
In  
4-7-05

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